

## SENATE BILL No. 148

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10.3.

**Synopsis:** Public employees' defined contribution plan. Provides for the possibility that an employee of the state or a political subdivision may accrue service credit in both the public employees' retirement fund (fund) and the public employees' defined contribution plan (plan). Provides that certain retired members of the fund begin or resume membership in the plan for periods of reemployment with the state or a participating political subdivision. Provides that an individual who is both a member of the fund and a member of the plan may purchase service credit in the fund after the member is vested in the fund with money in the annuity savings account that is attributable to service in the plan. Provides that an individual who is both a member of the fund and a member of the plan may purchase years of participation credit in the plan before the individual is fully vested in the plan with money in the annuity savings account that is attributable to service in the fund. (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

**Effective:** July 1, 2016.

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## Boots

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January 5, 2016, read first time and referred to Committee on Pensions & Labor.

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Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 148

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-10.3-7-1.1, AS ADDED BY P.L.241-2015,  
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2016]: Sec. 1.1. (a) An individual:  
4 (1) who becomes a full-time employee of a political subdivision  
5 in a covered position after an ordinance or resolution described in  
6 subdivision (2) that is adopted by the political subdivision has  
7 been approved by the board;  
8 (2) who is employed by a political subdivision that has elected in  
9 an ordinance or resolution adopted under IC 5-10.3-6-1 and  
10 approved by the board:  
11 (A) to allow an employee in the covered position to become a  
12 member of the fund or the public employees' defined  
13 contribution plan at the discretion of the employee; and  
14 (B) to require an employee to make an election under this  
15 section in order to become a member of the fund; and  
16 (3) who is not excluded from membership under section 2 of this  
17 chapter;



may elect to become a member of the fund.

(b) An election under this section:

- (1) must be made in writing on a form prescribed by the board;
- (2) must be filed with the board; and
- (3) is irrevocable.

(c) An individual who:

- (1) is eligible to make the election under this section; and
- (2) does not make the election;

becomes a member of the public employees' defined contribution plan.

**(d) An individual described in subsection (a) who separates from employment with a political subdivision and later returns to employment with the political subdivision having had an opportunity to make an election under this section during an earlier period of employment with the political subdivision is not entitled to a second opportunity to make an election under this section with respect to the individual's employment with the political subdivision.**

SECTION 2. IC 5-10.3-7-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 4.3. (a) A member of the fund who is also a member of the public employees' defined contribution plan may purchase and claim years of service credit in the fund subject to the following requirements:**

**(1) The member has at least one (1) year of credited service in the fund.**

**(2) The member has at least ten (10) years of in-state credited service before the member may claim the years of service credit.**

**(3) After acquiring one (1) year of credited service in the fund and before the member retires, the member must make the following contributions to the fund:**

**(A) Contributions that are equal to the product of the following:**

**(i) The member's salary at the time the member makes a contribution for the service credit.**

**(ii) A percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.**

**(iii) The number of years of service credit that the**



- 1 member intends to purchase.
- 2 (B) Contributions for any accrued interest, at a rate
- 3 determined by the actuary of the fund, for the period from
- 4 the member's initial membership in the fund to the date
- 5 payment is made by the member.
- 6 (b) A member:
- 7 (1) who terminates employment before becoming eligible to
- 8 receive a monthly allowance; or
- 9 (2) who receives a monthly allowance for the same service
- 10 from another tax supported public employee retirement plan
- 11 other than under the federal Social Security Act;
- 12 may withdraw the personal contributions made under this section
- 13 plus accumulated interest after submitting an application for a
- 14 refund to the fund in the manner prescribed by the board.
- 15 (c) The following apply to the purchase of service credit under
- 16 this section:
- 17 (1) The board may allow a member to make periodic
- 18 payments of the contributions required for the purchase of
- 19 service credit in the fund.
- 20 (2) A member may elect to make a transfer of the vested
- 21 portion of the member's annuity savings account balance
- 22 attributable to participation in the public employees' defined
- 23 contribution plan to purchase service credit in the fund.
- 24 (3) The board may deny an application for the purchase of
- 25 service credit in the fund if the purchase would exceed the
- 26 limitations under Section 415 of the Internal Revenue Code.
- 27 (4) A member may not claim the service credit for the purpose
- 28 of determining eligibility or computing benefits unless the
- 29 member has made all the payments required for the purchase
- 30 of the service credit.
- 31 SECTION 3. IC 5-10.3-12-1, AS AMENDED BY P.L.241-2015,
- 32 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2016]: Sec. 1. (a) Except as otherwise provided in this section,
- 34 this chapter applies to the following:
- 35 (1) An individual who:
- 36 (A) on or after the effective date of the plan, becomes for the
- 37 first time a full-time employee of the state:
- 38 (i) in a position that would otherwise be eligible for
- 39 membership in the fund under IC 5-10.3-7; and
- 40 (ii) who is paid by the auditor of state by salary warrants;
- 41 and
- 42 (B) makes the election described in section 20 of this chapter



to become a member of the plan.

(2) An individual:

(A) who becomes a full-time employee of a participating political subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the plan.

(3) An individual:

(A) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and

(ii) to require an employee in a covered position to make an election under section 20.5 of this chapter in order to become a member of the plan; and

(D) who makes an election under section 20.5 of this chapter to become a member of the plan.

(4) An individual:

(A) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the



discretion of the employee; and

(ii) to require an employee to make an election under IC 5-10.3-7-1.1 in order to become a member of the fund; and

(D) who does not make an election under IC 5-10.3-7-1.1 to become a member of the fund.

**(5) An individual:**

**(A) who is a retired member (as defined in IC 5-10.3-1-5) of the fund;**

**(B) who is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired; and**

**(C) who after June 30, 2016, begins, or on July 1, 2016, is engaged in, a period of reemployment with the state or a participating political subdivision as a full-time employee more than thirty (30) days after the individual's retirement in a position:**

**(i) that would otherwise be covered by the fund, if the reemployment is with the state; or**

**(ii) with respect to which the individual is required or allowed to accrue service credit in the plan, if the reemployment is with a participating political subdivision.**

(b) Except as provided in subsection (c), this chapter does not apply to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) is employed by:

(A) a body corporate and politic of the state created by state statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who, as employees of the body or institution, become for the first time full-time employees of the state in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director;



or

(2) March 1, 2013.

(d) This chapter does not apply to the following:

(1) An individual who is or was a member (as defined in IC 5-10.3-1-5) of the fund before otherwise becoming eligible to become a member of the plan;

(2) An individual who:

(A) on or after the effective date of the plan, except as provided in subsection (c); becomes for the first time a full-time employee of the state:

(i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(ii) who is not paid by the auditor of state by salary warrants;

or

(B) does not elect to participate in the plan.

(3) An individual who:

(A) is eligible to make the election under IC 5-10.3-7-1.1 to become a member of the fund; and

(B) does make the election under IC 5-10.3-7-1.1 to become a member of the fund.

(4) An individual who is required to become a member of the fund.

SECTION 4. IC 5-10.3-12-20, AS AMENDED BY P.L.241-2015, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20. (a) This section applies only to an individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7.

(b) An individual to whom this section applies may elect to become a member of the plan **for all service credit that the member accrues in a covered position as an employee of the state.** An election under this section:

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board; and

(3) is irrevocable.

(c) **Except as provided in section 32(a) of this chapter,** an individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund **for all service credit that the member accrues in a covered position as an employee of the state.**

SECTION 5. IC 5-10.3-12-20.5, AS ADDED BY P.L.241-2015,



SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 20.5. (a) This section applies to an individual described in section 1(a)(3) of this chapter who is otherwise eligible to become a member of the plan.

(b) An individual described in subsection (a) may elect to become a member of the plan on the date the individual begins the individual's employment in a covered position with a political subdivision that participates in the plan. **The election applies to all service credit that the member accrues in a covered position as an employee of the political subdivision while the political subdivision participates in the plan.**

(c) An election under this section:

- (1) must be made in writing;
- (2) must be filed with the board on a form prescribed by the board; and
- (3) is irrevocable.

(d) **Except as provided in section 32(b) of this chapter**, an individual described in subsection (a) who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund **for all service credit that the member accrues in a covered position as an employee of the political subdivision while the political subdivision participates in the fund.**

SECTION 6. IC 5-10.3-12-21, AS AMENDED BY P.L.241-2015, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 21. (a) The plan consists of the following:

- (1) Each member's contributions to the plan under section 23 of this chapter.
- (2) Contributions made by an employer to the plan on behalf of each member under section 24 or 24.5 of this chapter.
- (3) Rollovers to the plan by a member under section 29 of this chapter.
- (4) All earnings on investments or deposits of the plan.
- (5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

- (1) The member contribution subaccount consists of:
  - (A) the member's contributions to the plan under section 23 of this chapter; and
  - (B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.





(2) The employer contribution subaccount consists of:

- (A) the employer's contributions made on behalf of the member to the plan under section 24 or 24.5 of this chapter; and
- (B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 29 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

**(d) If:**

- (1) the board offers the plan using the annuity savings account; and**
- (2) an individual is both a member of the plan and a member (as defined in IC 5-10.3-1-5) of the fund;**

**the board shall account for the individual's contributions and the employer contributions made on behalf of the individual under the fund separately from the individual's contributions and the employer's contributions made on behalf of the individual under the plan.**

SECTION 7. IC 5-10.3-12-23, AS AMENDED BY P.L.241-2015, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 23. **(a) This section applies only to a member who:**

- (1) is employed by the state or a participating political subdivision in a covered position; and**
- (2) is accruing years of participation credit in the plan in the employment described in subdivision (1).**

~~(a)~~ **(b)** Each member's contribution to the plan is equal to three percent (3%) of the member's compensation.

~~(b)~~ **(c)** For a member who is an employee of the state, the state shall pay the member's contribution on behalf of the member each year.

~~(c)~~ **(d)** For a member who is an employee of a political subdivision, the political subdivision may pay all or part of the member's contribution on behalf of the member.

~~(d)~~ **(e)** To the extent permitted by the Internal Revenue Code and applicable regulations, a member of the plan may make contributions to the plan in addition to the contribution required under subsection ~~(a)~~. **(b).** IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d) govern additional



contributions made under this subsection.

~~(e)~~ (f) Member contributions will be credited to the member's account as specified in IC 5-10.2-3.

~~(f)~~ (g) Although designated as employee contributions, the contributions made under subsection ~~(b)~~ (c) are picked up and paid by the state as the employer in lieu of the contributions being paid by the employee in accordance with Section 414(h)(2) of the Internal Revenue Code.

~~(g)~~ (h) Although designated as employee contributions, the contributions made under subsection ~~(e)~~ (d) by a political subdivision may be picked up and paid by the employer instead of the contributions being paid by the employee in accordance with Section 414(h)(2) of the Internal Revenue Code.

~~(h)~~ (i) A member may not receive any amounts paid by an employer under this section directly instead of having the amounts paid to the plan.

SECTION 8. IC 5-10.3-12-24, AS AMENDED BY P.L.241-2015, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 24. (a) The state shall make employer contributions to the plan based on the rate determined under this section.

(b) The state's contribution rate for the plan is equal to the employer's contribution rate for the fund as determined by the board under IC 5-10.2-2-11(b). The amount credited from the employer's contribution rate to the member's account shall not be greater than the normal cost of the fund. Any amount not credited to the member's account shall be applied to the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan who are employees of the state.

**(d) The state's contributions to the plan are based only on the compensation paid to members:**

**(1) who are employed by the state in covered positions; and**

**(2) who are accruing years of participation credit in the plan in the employment described in subdivision (1).**

~~(d)~~ (e) The state shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

SECTION 9. IC 5-10.3-12-24.5, AS ADDED BY P.L.241-2015, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 24.5. (a) A participating political subdivision shall make employer contributions to the plan based on the rate determined



- 1 under this section.
- 2 (b) A participating political subdivision's contribution rate for the
- 3 plan is equal to the sum of:
- 4 (1) the contribution rate determined by the participating political
- 5 subdivision under IC 5-10.3-6-1(c); and
- 6 (2) the sum, for each member employed by the participating
- 7 political subdivision, of:
- 8 (A) the member's additional contribution to the plan under
- 9 section ~~23(d)~~ **23(e)** of this chapter; multiplied by
- 10 (B) the participating political subdivision's matching rate
- 11 determined under IC 5-10.3-6-1(d).
- 12 **(c) A participating political subdivision's contributions to the**
- 13 **plan are based only on the compensation paid to members:**
- 14 **(1) who are employed by the participating political**
- 15 **subdivision in covered positions; and**
- 16 **(2) who are accruing years of participation credit in the plan**
- 17 **in the employment described in subdivision (1).**
- 18 ~~(c)~~ **(d)** For each employee of a participating political subdivision,
- 19 the amount credited to the member's account is the part of the
- 20 employer's contribution determined under subsection (b) that is
- 21 attributable to the member's compensation and the member's additional
- 22 contributions.
- 23 ~~(d)~~ **(e)** A participating political subdivision shall submit the
- 24 employer contributions determined under this section as provided in
- 25 IC 5-10.2-2-12.5.
- 26 SECTION 10. IC 5-10.3-12-25.5 IS ADDED TO THE INDIANA
- 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 28 [EFFECTIVE JULY 1, 2016]: **Sec. 25.5. (a) An active or suspended**
- 29 **member of the fund who is also a member of the plan may**
- 30 **purchase and claim years of participation credit in the plan subject**
- 31 **to the following requirements:**
- 32 **(1) The member has at least one (1) year of credited service in**
- 33 **the fund.**
- 34 **(2) The member has at least ten (10) years of in-state credited**
- 35 **service before the member may claim the years of**
- 36 **participation credit in the plan.**
- 37 **(3) The member has less than five (5) years of participation in**
- 38 **the plan.**
- 39 **(4) After acquiring one (1) year of credited service in the fund**
- 40 **and before the member retires under IC 5-10.2-4, the member**
- 41 **makes the following contributions to the plan:**
- 42 **(A) Contributions that are equal to the product of the**



following:

(i) The member's salary at the time the member makes a contribution for the years of participation credit.

(ii) A percentage rate, as determined by the board's actuary, that is based on the sum of the contribution rates required of the member under section 23 of this chapter and the member's employer under section 24 or 24.5 of this chapter, as applicable, at the time the member makes a contribution for the years of participation credit.

(iii) The number of years of participation credit in the plan that the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the board's actuary, for the period from the member's initial membership in the plan to the date payment is made by the member.

(b) A member:

(1) who terminates employment before becoming eligible to receive a monthly allowance; or

(2) who receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under this section plus accumulated interest after submitting an application for a refund to the plan in the manner prescribed by the board.

(c) The following apply to the purchase of years of participation credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of years of participation credit in the plan.

(2) A member may elect to make a transfer of the member's annuity savings account balance attributable to participation in the fund to purchase years of participation credit in the plan.

(3) The board may deny an application for the purchase of years of participation credit in the plan if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(4) A member may not claim the years of participation credit for the purpose of determining eligibility or computing benefits unless the member has made all the payments required for the purchase of the years of participation credit.



SECTION 11. IC 5-10.3-12-31, AS AMENDED BY P.L.241-2015, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 31. (a) If a member of the plan separates from employment with the member's employer, ~~and later returns to~~ **begins** employment **with the same or a different employer** in a position covered by the plan, **and is required or elects to accrue years of participation credit with the plan:**

(1) the member resumes the member's participation in the plan; and

(2) the member is entitled to receive credit for the member's years of participation in the plan before the member's separation.

~~However,~~ Any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

~~(b) If a member (as defined in IC 5-10.3-1-5) of the fund separates from employment with the member's employer and later returns to employment in a position covered by the fund, the individual resumes the member's participation in the fund:~~

~~(e) (b)~~ An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter.

**(c) An individual described in section 1(a)(3) of this chapter who returns to employment with a participating political subdivision having had an opportunity to make an election under section 20.5 of this chapter during an earlier period of employment with the participating political subdivision is not entitled to a second opportunity to make an election under section 20.5 of this chapter with respect to that employer.**

SECTION 12. IC 5-10.3-12-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 32. (a) Notwithstanding section 20 and section 31(b) of this chapter, if an individual:

(1) is a retired member (as defined in IC 5-10.3-1-5) of the fund;

(2) is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired; and

(3) after June 30, 2016, begins, or on July 1, 2016, is engaged in, a period of reemployment with the state in a position that would otherwise be covered by the fund;

**the individual shall begin or resume membership in the plan for the period of reemployment with the state on the later of July 1, 2016,**



1 or the date on which the individual's period of reemployment  
2 begins.

3 (b) Notwithstanding section 20.5 and section 31(c) of this  
4 chapter, if an individual:

5 (1) is a retired member (as defined in IC 5-10.3-1-5) of the  
6 fund;

7 (2) is prohibited from making contributions to the fund under  
8 IC 5-10.2-4-8(e) during a period of reemployment that begins  
9 more than thirty (30) days after the member retired; and

10 (3) after June 30, 2016, begins, or on July 1, 2016, is engaged  
11 in, a period of reemployment with a participating political  
12 subdivision as a full-time employee in a position with respect  
13 to which the individual is required or may elect to accrue  
14 years of participation credit in the plan;

15 the individual shall begin or resume membership in the plan for the  
16 period of reemployment with the participating political subdivision  
17 on the later of July 1, 2016, or the date on which the individual's  
18 period of reemployment begins.

